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**NOV 21 2006**

**OFFICE OF PETITIONS**

In re Application	:
Scott, et al.	:
Application No. 09/820,557	: DECISION ON APPLICATION
Filed: March 29, 2001	: FOR PATENT TERM ADJUSTMENT
Docket No. 09090.0003-02	:

This is a decision on the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed August 21, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred sixty-nine (269) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was three hundred thirty-eight (338) days.

The Office initially determined a patent term adjustment of three hundred thirty-eight (338) days based on an adjustment for PTO delay of one hundred forty-seven (147) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and two hundred fifty-four (254) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by thirty-two (32) and thirty-

one (31) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). All adjustments have been reviewed and determined to be correct.

Applicant points out that they should have been assessed additional delay in responding to an Office action. The Office mailed a non-final action on October 23, 2002. Applicants filed a response on February 24, 2003. Accordingly, pursuant to 37 C.F.R. 1.704(b), thirty-two (32) days of applicant delay should have been assessed for this filing.

Moreover, Applicant should have been assessed additional delay of thirty-seven (37) days pursuant to 37 C.F.R. 1.704(c)(8). After Applicants filed their response on February 24, 2003, Applicants filed an IDS on April 1, 2003. Accordingly, pursuant to 37 C.F.R. 1.704(c)(8), additional applicant delay of thirty-seven (37) days should have been assessed for this supplemental filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred sixty-nine (269) days** (401 (147+254) days of PTO delay, reduced by 132 (32+37+37+31) days of applicant delay).

No fee has been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the Office's attention.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

*Kery A. Fries*

Kery Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Tuesday  
Date: 11/21/2006

# **PALM INTRANET**

Time: 10:05:02

PTA Calculations for Application: 09/820557					
Application Filing Date:		03/29/2001	PTO Delay (PTO):		401
Issue Date of Patent:			Three Years:		0
Pre-Issue Petitions:		0	Applicant Delay (APPL):		63
Post-Issue Petitions:		0	Total PTA (days):		269
PTO Delay Adjustment:		-69			

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
94	11/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		69	
83	07/26/2006	MAIL NOTICE OF ALLOWANCE			
82	07/25/2006	ISSUE REVISION COMPLETED			
81	07/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	07/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
79	07/25/2006	NOTICE OF ALLOWABILITY			
78	05/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	05/17/2006	REFERENCE CAPTURE ON IDS			
76	05/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	05/23/2006	DATE FORWARDED TO EXAMINER			
74	05/17/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	05/23/2006	DATE FORWARDED TO EXAMINER			
72	05/17/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
71	05/23/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
70	05/17/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
68	03/06/2006	MAIL FINAL REJECTION (PTOL - 326)			
67	03/03/2006	FINAL REJECTION			.
66	12/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	01/23/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

64	01/12/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
63	12/03/2005	REFERENCE CAPTURE ON IDS			
61	12/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	59
60	12/19/2005	DATE FORWARDED TO EXAMINER			
59	12/08/2005	RESPONSE AFTER NON-FINAL ACTION			
58	09/09/2005	MAIL NON-FINAL REJECTION			
57	09/06/2005	NON-FINAL REJECTION			
56	07/14/2005	REFERENCE CAPTURE ON IDS			
55	07/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	07/19/2005	DATE FORWARDED TO EXAMINER			
53	07/14/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
52	07/19/2005	DATE FORWARDED TO EXAMINER			
51	07/14/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	07/19/2005	DATE FORWARDED TO EXAMINER			
49	07/14/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	07/19/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	07/14/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	04/19/2005	MAIL FINAL REJECTION (PTOL - 326)	254		40
45	04/15/2005	FINAL REJECTION			
44	02/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
43	04/01/2003	REFERENCE CAPTURE ON IDS			
42	04/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
41	02/04/2005	DATE FORWARDED TO EXAMINER			
40	04/08/2004	RESPONSE AFTER NON-FINAL ACTION		31	36
39	04/08/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/05/2005	MISCELLANEOUS INCOMING LETTER			
37	04/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
36	12/08/2003	MAIL NON-FINAL REJECTION			
35	12/05/2003	NON-FINAL REJECTION			
34	12/01/2003	DATE FORWARDED TO EXAMINER			

33	10/02/2003	RESPONSE AFTER NON-FINAL ACTION			
32	10/02/2003	REQUEST FOR REFUND			
31	08/25/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	08/25/2003	WORKFLOW - REQUEST FOR RCE - FINISH			
29	09/18/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
28	09/17/2003	DATE FORWARDED TO EXAMINER			
27	08/25/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		32	18
26	09/17/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	08/25/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	08/25/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	08/11/2003	MAIL ADVISORY ACTION (PTOL - 303)			
22	08/09/2003	ADVISORY ACTION (PTOL-303)			
21	07/18/2003	DATE FORWARDED TO EXAMINER			
20	07/14/2003	AMENDMENT AFTER FINAL REJECTION			
19	04/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/24/2003	MAIL FINAL REJECTION (PTOL - 326)			
17	04/18/2003	FINAL REJECTION			
16	03/31/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
15	03/03/2003	DATE FORWARDED TO EXAMINER			
14.1	02/24/2003	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
14	02/24/2003	RESPONSE AFTER NON-FINAL ACTION			
13	02/24/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/03/2003	CORRESPONDENCE ADDRESS CHANGE			
10	10/23/2002	MAIL NON-FINAL REJECTION	147		-1
9	10/21/2002	NON-FINAL REJECTION			
8	10/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	10/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	05/21/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	09/13/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	05/11/2001	APPLICATION DISPATCHED FROM OIPE			